

AMENDED IN SENATE APRIL 5, 1999

**SENATE BILL**

**No. 575**

**Introduced by Senator Wright**  
(Coauthor: Assembly Member Strickland)

February 23, 1999

---

---

An act to amend Section 1366 of the Civil Code, and to repeal and add Section 8724 of the Corporations Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

SB 575, as amended, C. Wright. Common interest developments.

Existing law, the Davis-Stirling Common Interest Development Act, prohibits the board of directors of a common interest development association from imposing regular or special assessments that exceed specified limits without a vote of the owners of the association, as specified. Assessment increases necessary for emergency situations, including an extraordinary expense required by a court order, are excepted from this limitation.

This bill would ~~limit the applicability of the~~ *revise the above-described exception for to exempt an extraordinary expenses required by repair or maintenance expense that arises from a court order*, as specified. It would also make a technical, nonsubstantive change.

Existing law prohibits, without the approval of 100% of the members of an owners' association that is incorporated as a nonprofit mutual benefit corporation, the owners' association or any person acting on its behalf, that is obligated to provide

management, maintenance, preservation, or control of a lot, parcel, area, apartment, or unit, from transferring all or substantially all of its assets or filing a certificate of dissolution.

This bill would revise and recast this provision to exempt the dissolution of the association from this prohibition if specified conditions are met.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1366 of the Civil Code is  
2 amended to read:

3 1366. (a) Except as provided in this section, the  
4 association shall levy regular and special assessments  
5 sufficient to perform its obligations under the governing  
6 documents and this title. However, annual increases in  
7 regular assessments for any fiscal year, as authorized by  
8 subdivision (b), shall not be imposed unless the board has  
9 complied with subdivision (a) of Section 1365 with  
10 respect to that fiscal year, or has obtained the approval of  
11 owners, constituting a quorum, casting a majority of the  
12 votes at a meeting or election of the association  
13 conducted in accordance with Chapter 5 (commencing  
14 with Section 7510) of Part 3 of Division 2 of Title 1 of the  
15 Corporations Code and Section 7613 of the Corporations  
16 Code. For the purposes of this section, “quorum” means  
17 more than 50 percent of the owners of an association.

18 (b) Notwithstanding more restrictive limitations  
19 placed on the board by the governing documents, the  
20 board of directors may not impose a regular assessment  
21 that is more than 20 percent greater than the regular  
22 assessment for the association’s preceding fiscal year or  
23 impose special assessments which in the aggregate  
24 exceed 5 percent of the budgeted gross expenses of the  
25 association for that fiscal year without the approval of  
26 owners, constituting a quorum, casting a majority of the  
27 votes at a meeting or election of the association  
28 conducted in accordance with Chapter 5 (commencing  
29 with Section 7510) of Part 3 of Division 2 of Title 1 of the



1 Corporations Code and Section 7613 of the Corporations  
2 Code. For the purposes of this section, quorum means  
3 more than 50 percent of the owners of an association. This  
4 section does not limit assessment increases necessary for  
5 emergency situations. For purposes of this section, an  
6 emergency situation is any one of the following:

7 (1) An extraordinary repair or maintenance expense  
8 ~~required by~~ *that arises from* an order of a court.

9 (2) An extraordinary expense necessary to repair or  
10 maintain the common interest development or any part  
11 of it for which the association is responsible where a threat  
12 to personal safety on the property is discovered.

13 (3) An extraordinary expense necessary to repair or  
14 maintain the common interest development or any part  
15 of it for which the association is responsible that could not  
16 have been reasonably foreseen by the board in preparing  
17 and distributing the pro forma operating budget under  
18 Section 1365. However, prior to the imposition or  
19 collection of an assessment under this subdivision, the  
20 board shall pass a resolution containing written findings  
21 as to the necessity of the extraordinary expense involved  
22 and why the expense was not or could not have been  
23 reasonably foreseen in the budgeting process, and the  
24 resolution shall be distributed to the members with the  
25 notice of assessment.

26 (c) The association shall provide notice by first-class  
27 mail to the owners of the separate interests of any  
28 increase in the regular or special assessments of the  
29 association, not less than 30 nor more than 60 days prior  
30 to the increased assessment becoming due.

31 (d) Regular and special assessments levied pursuant to  
32 the governing documents are delinquent 15 days after  
33 they become due. If an assessment is delinquent the  
34 association may recover all of the following:

35 (1) Reasonable costs incurred in collecting the  
36 delinquent assessment, including reasonable attorney's  
37 fees.

38 (2) A late charge not exceeding 10 percent of the  
39 delinquent assessment or ten dollars (\$10), whichever is  
40 greater, unless the declaration specifies a late charge in

1 a smaller amount, in which case any late charge imposed  
2 shall not exceed the amount specified in the declaration.

3 (3) Interest on all sums imposed in accordance with  
4 this section, including the delinquent assessment,  
5 reasonable costs of collection, and late charges, at an  
6 annual percentage rate not to exceed 12 percent interest,  
7 commencing 30 days after the assessment becomes due.

8 (e) Associations are hereby exempted from  
9 interest-rate limitations imposed by Article XV of the  
10 California Constitution, subject to the limitations of this  
11 section.

12 SEC. 2. Section 8724 of the Corporations Code is  
13 repealed.

14 SEC. 3. Section 8724 is added to the Corporations  
15 Code, to read:

16 8724. (a) Notwithstanding any contrary provision in  
17 the governing documents of a common interest  
18 development, so long as there is any lot, parcel, area,  
19 apartment, or unit for which an incorporated association  
20 is obligated to manage, maintain, preserve, or control, the  
21 association may not do either of the following without the  
22 approval of 100 percent of the members:

23 (1) Transfer all or substantially all of its assets.

24 (2) File a certificate of dissolution.

25 (b) No court shall enter an order declaring the  
26 association duly wound up and dissolved.

27 (c) Notwithstanding subdivision (a), an association  
28 may be dissolved pursuant to Chapter 15 (commencing  
29 with Section 8510), Chapter 16 (commencing with  
30 Section 8610), and Chapter 17 (commencing with Section  
31 8710) if all of the following conditions are met:

32 (1) The association is insolvent.

33 (2) Alternate arrangements have been made to  
34 provide for the continuing management, maintenance,  
35 preservation, or control of any lots, parcels, areas,  
36 apartments, or units that the association is otherwise  
37 obligated to manage, maintain, preserve, or control.

38 (3) A majority of all the members of the association  
39 approve the dissolution.

1 (d) For purposes of this section, “common interest  
2 development,” “association,” and “governing  
3 documents” shall have the same meaning as these terms  
4 are defined in Section 1351 of the Civil Code.

O

